IN THE HIGH COURT OF JUDICATURE, ANDHRA PRADESH
AT HYDERABAD

(Special Original Jurisdiction)

FRIDAY, THE TWENTY NINTH DAY OF APRIL
TWO THOUSAND AND FIVE

PRESENT

THE HON'BLE MR JUSTICE N.V. RAMANA

WRIT PETITION NO : 9744 of 2004

Between:

Sri R.V.B.S.Choultry, Kanthipudi, Shankavaram Mandal,
East Godavari District.

..... PETITIONER

AND

1 The Land Acquisition Officer Peddapuram Mandal
East Godavari District.
2 The Andhra Pradesh State Road Transport Corporation, represented by its Managing Director, Musheerabad, Hyderabad.

.....RESPONDENTS

Petition under Article 226 of the constitution of India praying that in the circumstances stated in the Affidavit filed herein the High Court will be pleased to issue a writ, or order or direction, more particularly one in the nature of writ of Mandamus, directing the 2nd respondent to pay compensation to the petitioner institution for the suit land as per the prevailing market rate with interest and pass such other order or orders as this Hon'ble Court may deem fit and proper in the circumstances of the case.

Counsel for the Petitioner:SMT.N.INDRANI

Counsel for Respondent No. 1 : G.P. FOR LAND ACQUISITION

Counsel for the Respondent No.: MR.K.HARINATH

The Court at the admission stage made the following :

ORDER:

The present writ petition is filed seeking a direction to respondent No.2 to pay compensation to the petitioner-institution for the acquired land as per the prevailing market rate with interest.

The petitioner, a choultry, claims to be owner of land admeasuring an extent of Ac. 98.5 cents in Kathipudi village, Sankavaram Mandal, East Godavari district. The petitioner states that respondent No.2 made a proposal to acquire the said land for construction of bus shelter, and the petitioner-choultry vide Resolution dated 28-2-1984, accepted the proposal, and after negotiations the Deputy Commissioner of Endowments vide proceedings dated 1-7-1985, directed the Executive Officer of petitioner-institution to hand over possession of the land in Survey No. 52/2 and 53/1 to respondent No.2 subject to payment of compensation at the market rate to be fixed by the Revenue Department. Accordingly, after removing the encroachments, the petitioner-choultry claims to have handed over the possession of the land to respondent No.2 on 24-1-1986. Thereafter, the Commissioner of Endowments, vide letter dated 11-4-1986 requested the Collector, East Godavari District, to fix the compensation at market rate for the acquired land. Thereafter, the Revenue Divisional Officer concerned, requested respondent No.2 to send alienation proposals, and accordingly, respondent No.2 sent alienation proposals vide letter 8-3-1990. As respondent No.2, did not pay the compensation, the petitioner earlier filed W.P. No.5641 of 1993, which this Court by order dated 16-6-1997 disposed of permitting the petitioner to make an application seeking compensation before the authorities concerned, within two months from the date of the order. The grievance of the petitioner is that they received the copy of the order in W.P. No. 5641 of 1993 after lapse of two years, and as such, they could not make application before the authorities within the stipulated time, and now the authorities are not entertaining the application seeking compensation. Hence, the present writ petition.

Respondent No.1 filed counter denying the averments made in the writ petition. It is stated that the subject land is classified as Government poramboke in Government records, and the petitioner could not produce any valid documents to prove their right over the land in Survey No.52/2 and 53/1. It is further stated that in the Revenue records and Settlement Register, the subject land is recorded as “Government Poramboke” and not as “Zeroiti land”, and when the land does not belong to the petitioner-choultry, the fixing of the rate does not arise. It is further stated that

pursuant to the orders in W.P. No. 5641 of 1993, the petitioner has not made any application together with evidence in support of their claim, and as such, respondent No.2 was called upon to furnish the alienation proposals, which they furnished.

The learned Government Pleader for Land Acquisition produced the original record of the Settlement Register of 1933, wherein the land covered by Survey No. 53/1, in an extent of 0.71 cents, is shown in the name of “Satram” and the land in Survey No. 52/1, is recorded as “Government poramboke”. Similarly, in the Adangal of 1986, produced by the Government Pleader, the name of the petitioner-choultry is shown as occupier. However, the learned Government Pleader submits that the petitioner has not filed any representation as directed by this Court in W.P. No. 5641 of 1993, dated 16-6-1997, and since the subject land is a Government land, the question of paying any compensation to the petitioner-choultry does not arise.

Prima facie, the record produced by the learned Government Pleader for Land Acquisition, especially the Settlement Register, shows that the land in Survey No. 53/1, in an extent of 0.71 cents, is recorded in the name of “Satram” while the land in Survey No. 52/1, is recorded as “Government poramboke”. Similarly, in the Adangal of 1986, produced by the Government Pleader, the name of the petitioner-choultry is shown as occupier. Inasmuch as the petitioner-choultry is shown as owner and occupier of the land in the above-mentioned survey numbers, which respondent No.2 had taken, I am of the considered opinion that respondent No.1 has to ascertain who exactly is the owner of the land in question, and therefore, it is appropriate that the matter be re-examined and appropriate orders passed in accordance with law.

Accordingly, the writ petition is disposed of permitting the petitioner to file an application before respondent No.1-Land Acquisition Officer, within a period of four weeks, together with material in support of their claim. On receipt of such application, respondent No.1 shall consider the same and pass appropriate orders in accordance with law, after taking into consideration, the material if any that may be produced by the petitioner. No costs.

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N.V.RAMANA,J

29-4-2005

TVK

..... REGISTRAR

// TRUE COPY //

SECTION OFFICER

To

1 The Land Acquisition Officer Peddapuram Mandal
East Godavari District.
2 The Managing Director, Andhra Pradesh State Road Transport Corporation, Musheerabad, Hyderabad.

3) 2 CCs to the Government Pleader for Land Acquisition, High Court of A.P. Buildings, Hyderabad (OUT)

4) 2 CD copies

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